that BellSouth's systems are regional. (Test. of Pate, Tr. Vol. 3, Pgs. 328-336, 340-342, and 461B-461C) (Test. of McElroy, Tr. Vol. 10, Pgs. 51- 59)

In response to criticism by Sprint and AT&T, BellSouth asserts that the fact that performance may not be the same in each of the nine states does not demonstrate that BellSouth's OSS vary within its region. The factors causing these differences include weather, topology, local regulations governing such processes as excavation, and variance in order volumes. The relevant question is not whether the results are the same but whether the processes and systems are the same. Indeed, BellSouth asserts that the processes and systems are the same. (Test. of Heartley, Tr. Vol. 8, Pgs. 251-253)

BellSouth acknowledges instances where its processes differed within the region but maintains that these differences no longer exist. During PwC's review, it discovered that the LCSCs were giving preference to manual orders from Georgia and Florida. This preferential treatment occurred because the LCSCs were phasing in shortened intervals for particular metrics as ordered by the Georgia and Florida commissions. Prior to the PwC attestation, this practice stopped and PwC could attest that the test for regionality of OSS was met. To further prove that this problem has been corrected, BellSouth points to the fact that its performance measures for Reject Timeliness and FOC Timeliness for manually submitted LSRs have consistently improved and have been consistent among all nine states, with performance in all states exceeding the benchmark almost every month. BellSouth asserts that its actual performance demonstrates that its prioritizing of orders from Georgia and Florida occurred for only a short time and caused very little disparity in performance between or among states. (Test. of McElroy, Tr. Vol. 5, Pgs. 200-202; Tr. Vol. 10, Pgs. 60- 63)

(d) <u>Change Management Process</u>

BellSouth asserts that its CCP is an evolving, regional, multi-CLP process. (Test. of Pate, Tr. Vol. 3, Pg. 351) As part of its third-party test in Georgia, KPMG tested BellSouth's change management process pursuant to both the MTP and the STP. KPMG found that BellSouth had satisfied each evaluation criterion related to change management. (KPMG Final MTP Report, at VIII-A-15 - VIII-A-23) (Test. of Pate, Tr. Vol. 3, Pg. 183) KPMG found in the Georgia third-party test that the change management process contained procedures to allow input from all participants (Test. of Pate, Tr. Vol. 3, Pg. 189) and clearly defined change management process responsibilities. (Test. of Pate, Tr. Vol. 3, Pg. 191) KPMG also found that the CCP had no deficiencies that would create potentially adverse impacts on competition. (Test. of Pate, Tr. Vol. 3, Pg. 352)

BellSouth first began discussions with CLPs about the change management process in 1997, when, in conjunction with a steering committee of six CLPs, (AT&T, MCI, Sprint, e.spire, LCI, and Intermedia) it developed, approved, and signed the original Electronic Interface Change Control Process. (Test. of Pate, Tr. Vol. 3, Pg. 184) On August 23, 2000, a majority of CLPs agreed to approve a revised CCP document which became the baseline to the process. (Test. of Pate, Tr. Vol. 3, Pg. 188) A new "baseline" CCP document was issued on March 26, 2001. (Test. of Pate, Tr. Vol. 3, Pg. 191) The CCP document is available at BellSouth's CCP website. (Test. of Pate, Tr. Vol. 3, Pg. 191) Currently, there are 106 members of the CCP, excluding BellSouth. Ninety-seven members are CLPs and nine members are vendors that build interfaces for CLPs that do business with BellSouth. (Test. of Pate, Tr. Vol. 3, Pg. 197)

BellSouth's CCP handles changes in software, hardware, industry standards, products and services, new or revised edits, process (electronic interfaces and manual processes related to order, pre-order, maintenance, and testing), regulatory requirements, documentation (business rules and user guides), and defects. It does not handle Bona Fide Requests, production support, contractual agreements, or collocation. Change requests of this nature will be handled through other existing BellSouth processes. (Test. of Pate, Tr. Vol. 3, Pgs. 192-193) As of February 2001, 81 CLP and 45 BellSouth change requests had been implemented or were in progress. (Test. of Pate, Tr. Vol. 3, Pg. 213) As of September 6, 2001, there were 112 change requests pending in the CCP, 70 from CLPs and 40 from BellSouth. All requests have received at least an initial response from BellSouth via the CCP, and only one response to a request missed the BellSouth 20-day response interval. (Test. of Pate, Tr. Vol. 3, Pgs. 366-368)

BellSouth disagrees with AT&T's allegation that BellSouth has veto power in the CCP. BellSouth does not believe that it should make a change supported by a majority of CCP participants if the change request goes beyond BellSouth's obligations under FCC orders, is infeasible under BellSouth's current technical capabilities or policies, or requires BellSouth to make a substantial financial investment for limited utilization by the CLP community. If BellSouth does reject a change request, it has a subject matter expert provide an explanation to the CCP forum if appropriate. (Test. of Pate, Tr. Vol. 3, Pgs. 353-358) However, BellSouth admits that even if all CLPs in the CCP request a change but BellSouth cannot support the request, then BellSouth can reject the change request after it first tries to accommodate the CLPs and provides an explanation. Last year there were 11 contested items in the CCP ballots, i.e., BellSouth disagreed with the request. (Test. of Pate, Tr. Vol. 4, Pgs. 122-132) However, in regard to these contested items, it appears that none of the CLPs elected to initiate the dispute resolution process contained in the CCP document. (Test. of Pate, Tr. Vol. 5, Pgs. 57-58)

In the Florida third-party test, KPMG opened an exception because the CCP does not allow CLPs to be involved in the prioritization of all CLP-impacting requests. Rather, BellSouth does additional prioritization after the CCP has completed the initial prioritization. (Test. of Pate, Tr. Vol. 4, Pgs. 121-132) BellSouth points out that it does this additional prioritization because there are other software changes besides CLP change requests necessary to satisfy regulatory requirements, fix defects, or make the release work. If a change request is made to the CCP but is pending before the industry's OBF, BellSouth will determine if it can support the request if it is inactive for six months before the OBF. BellSouth further asserts that CLPs benefit from changes made at BellSouth's behest. Since the CCP began, based on our record of evidence, 29 CLP and 29 BellSouth change requests for new functionalities have been implemented. Over 100 defect corrections from both CLPs and BellSouth have been applied and three regulatory changes. Over 420 change requests have been processed, although a number of CLP and BellSouth requests were subsequently canceled. This process has resulted in 160 changes being implemented. (Test. of Pate, Tr. Vol. 3, Pgs. 353-358)

Based on our record of evidence, there were several open exceptions in the Florida test involving the CCP. Florida Exception 12 states that BellSouth does not adhere to procedures for system outages by providing notifications to CLPs and posting updates to the website. BellSouth asserts that it has enhanced its outage notification process and has updated documentation. It is also conducting daily reviews to track results and ensure that it is meeting its responsibilities for system outages. Thus, BellSouth asserts that it is ready for retesting on this exception. Florida Exception 88 states that BellSouth's change control prioritization process does not allow CLPs to be involved in prioritization of all CLP-impacting change requests. BellSouth states that it is continuing to work through the exception process to resolve this issue. Florida Exception 106 states that BellSouth's IT team methods and procedures documentation does not provide the criteria utilized by BellSouth's IT team to develop the scope of a software release package. BellSouth has provided KPMG with a proprietary document containing the strategies for scope development of release packages and is working through the exception resolution process. (Test. of McElroy, Tr. Vol. 10, Pgs. 44-47)

BellSouth asserts that it is committed to responding to change requests as quickly as possible. Under CCP Document Version 2.6 (September 10, 2001), BellSouth has three days to acknowledge a change request and 10 days to respond whether it can support a change request. The previous interval for a response was 20 days. Since April 2000, BellSouth has acknowledged 95% of the 244 Types 2-5 change requests it received in the three-day interval, and responded to 90% of the change requests within the 20-day interval. For Type 6 defects, BellSouth has three days to validate the request as a defect and respond to the CLP. For the 191 Type 6 change requests since April 2000, BellSouth met the three-day interval 81% of the time. BellSouth explains that 19 of the 37 change requests that it missed were issued in one single day and that they were unable to validate all 19 within three days. Without these 19 change requests, BellSouth would have met the three-day interval 91% of the time. If BellSouth rejects a change request, a CLP may request that the request retain its status as being "new" until the CLP determines its next step. It is the responsibility of a CLP to cancel such a change request. (Test. of Pate, Tr. Vol. 3, Pgs. 363-365)

BellSouth asserts that it delivers change management notifications in a timely manner. Under its notification policy, BellSouth is to provide notification of software releases and documentation changes of business rules at least 30 days in advance of implementation. Notification of documentation updates is to be posted five business days before the documentation posting date. (Test. of Pate, Tr. Vol. 3, Pgs. 194-196) However, BellSouth maintains that it has the right to make whatever changes to OSS it deems necessary without notifying CLPs unless CLPs are impacted. (Test. of Pate, Tr. Vol. 3, Pg. 358)

KPMG found in the Georgia test that BellSouth had significantly improved its record of web posting of CLP notification in 2000. BellSouth has proposed new intervals for notification and documentation within the CCP. BellSouth also posts Type 1 system outages and Type 6 defect notices at its CCP website and sends CLPs CCP documentation by e-mail using a "list manager." (Test. of Pate, Tr. Vol. 3, Pgs. 194-196) BellSouth asserts that it has a documentation quality control project plan by which CLPs are provided accurate documentation disseminated in a timely manner. (Test. of Pate, Tr. Vol. 3, Pgs. 344-345) BellSouth also notifies CCP participants of defects and expedited requests. (Test. of Pate, Tr. Vol. 3, Pgs. 198-199) BellSouth does not employ a "go/no go decision point," but rather has a notification schedule whereby it keeps CLPs informed on the implementation of new interfaces and program release upgrades, which should prevent the CLPs from prematurely cutting over to a new release. (Test. of Pate, *Tr. Vol. 3, Pgs. 361-362)*

The CCP also contains a procedure for resolution of disputes arising in the CCP.[79] Within the CCP document, there is a process for both escalation and dispute resolution whereby a party can internally escalate a problem and, if unresolved, take it to the Commission. (Test. of Pate, Tr. Vol. 3, Pgs. 199-200, 356)

The CCP document also covers the introduction to CLPs of new electronic interfaces. Once the new interface is built and used in production, it is added to the scope of the CCP as well as any changes to it. (Test. of Pate, Tr. Vol. 3, Pg. 213) The CCP does not cover the development of new electronic interfaces, because BellSouth contends that it must have the flexibility to develop interfaces to meet industry standards and regulatory requirements. BellSouth does not retire old interfaces unless CLPs are not using them at all or very little and BellSouth has a replacement that provides equal or better functionality than the retiring interface. The CCP includes requirements for notification of retirement of active interfaces. BellSouth will ensure that CLPs are able to transition to another interface before the retirement and that the transition does not negatively impact a CLP's business. (Test. of Pate, Tr. Vol. 3, Pgs. 200-202)

BellSouth asserts that its versioning process for electronic interfaces covered by the CCP enables CLPs to transition to newer versions of its EDI and TAG interfaces on a schedule that is convenient for them. BellSouth's policy is to support two industry standard versions of the applicable electronic interfaces. (Test. of Pate, Tr. Vol. 3, Pgs. 202-204) CLPs are not forced to switch to a new version if they are unready to migrate to a new industry standard interface. (Test. of Pate, Tr. Vol. 3, Pg. 362) Whenever BellSouth retires a version of an interface, BellSouth will notify the CLPs 120 days in advance. A CLP may request an extension via the CCP by explaining how the retirement date affects its business. LENS is not covered by BellSouth's versioning policy, because CLPs do not have to do any programming to use it and it is not a machine-to-machine interface. (Test. of Pate, Tr. Vol. 3, Pgs. 202-204)

BellSouth takes exception to AT&T's contention that it has a "secret document" detailing the replacement of its DOE and SONGS software in the future. BellSouth points out that it first mentioned this plan in public testimony filed by Mr. Ken Ainsworth in Alabama in 2001, so AT&T should have notice of the planned OSS change. Moreover, BellSouth asserts that DOE and SONGS are not interfaces covered by the CCP, and any changes made to them would be seamless and would not affect the CLPs. Furthermore, in regard to notifications to CLPs, BellSouth states that the CCP clearly provides that BellSouth is required to notify CLPs of "CLEC [CLP] Affecting Changes" related to the following interfaces - LENS, EDI, TAG, TAFI, ECTA, and CSOTS. (Test. of Pate, Tr. Vol. 3, Pgs. 358-360)

BellSouth asserts that it provides CLPs with an open and stable testing environment for the machine-to-machine EDI and TAG interfaces. As of December 2000, 20 CLPs used the testing environment to test EDI and 27 CLPs used it to test TAG. KPMG found in its Georgia test that BellSouth provided a satisfactory test environment to CLPs for all supported interfaces in connection with OSS'99. Before releasing an interface to CLPs, BellSouth internally tests the release in the same testing environment used by CLPs. (Test. of Pate, Tr. Vol. 3, Pgs. 204-205)

BellSouth provides CLPs with the opportunity to participate in beta testing. BellSouth also offers new carrier testing to CLPs shifting from a manual to an electronic environment and testing for CLPs shifting to new versions of EDI or TAG. This testing is available to all CLPs. While BellSouth provides the test scenarios, a CLP may provide its own scenarios when BellSouth's scenarios do not match the CLP's business plan. BellSouth will provide the data to be used in the test scenarios. RoboTAG™ is not evaluated in the testing environment, but rather through user acceptance testing. BellSouth has standard test agreements for EDI, TAG, and RoboTAG™, which can be modified based on a CLP's needs. (Test. of Pate, Tr. Vol. 3, Pgs. 205-207)

In response to Covad's criticism that it participated in "trial and error" testing of electronic ordering of xDSL loops through LENS, BellSouth asserts that Covad participated in lengthy beta testing with BellSouth before the electronic ordering functionality became available in February 2001. BellSouth believes that all issues that arose during the beta testing were resolved. (Test. of Pate, Tr. Vol. 3, Pg. 344) Furthermore, BellSouth states that it subjects its products to rigorous internal testing, including user acceptance testing.

In response to AT&T's complaints regarding the Georgia 1000 Trial it entered into with BellSouth to validate both parties' ordering, provisioning, billing requirements, and procedures for obtaining port/loop combinations, BellSouth points out that this test had a number of abnormalities. BellSouth installed 800 retail lines without a signed test agreement and never received a comprehensive test plan. It was also never permitted to review AT&T's intended order scenarios and expected outcomes. Further, AT&T did not submit a pathfinder order prior to normal testing and did not inform BellSouth that testing had commenced. The pathfinder order process is a step in the testing process that allows CLPs to confirm that transactions flow to the production environment without incident and that translations can be properly translated. BellSouth asserts that AT&T's data from this trial is unreliable and that the trial was theoretically flawed. BellSouth also points out that the trial was not conducted in a controlled environment. BellSouth asserts that both it and AT&T contributed to the low flow-through results of 78.13% achieved in Phase II of the test. However, the flow-through rate rose to nearly 90% in Phase III. In November 2000, BellSouth installed a Mercator EDI platform to resolve the problems experienced with the sending of timestamps on a timely basis. BellSouth also corrected a problem in its billing system that caused a delay in CLPs' receipt of completion notices. BellSouth also states that it corrected the problem of a customer who changed his mind about taking service through a CLP and then lost dial tone by relating supplemental orders to the original to prevent a possible conflict in the dates assigned to these orders. As a result of the Georgia 1000 Trial, BellSouth was able to identify and correct a number of problems with its OSS, which inures to the benefit of all CLPs. Finally, BellSouth points out that the level of commercial usage demonstrates that BellSouth is capable of fulfilling UNE-P orders. In North Carolina and Georgia, 42,843 LSRs for UNE-P were transmitted in July 2001. (Test. of Pate, Tr. Vol. 3, Pgs. 441-454)

BellSouth disputes the contention that data collected in the Georgia 1000 Trial between November and December 2000 indicates that BellSouth missed the benchmarks for most metrics involving LSR handling. BellSouth asserts that if the Commission reviews current data, from May 2001 to July 2001 for UNE-Ps which the Georgia 1000 Trial was based on, it is evident that it is meeting the benchmarks. (Test. of Varner, Tr. Vol. 8, Pgs. 504-505)

In response to AT&T's assertion that KPMG did not retest BellSouth's correction to the due-date calculator, BellSouth agrees that KPMG did not have the opportunity to retest the implementation of a correction to the due-date calculator because it occurred after KPMG concluded its retesting in Georgia. However, BellSouth points out that no CLPs have submitted any Type 6 defect notifications for this problem, indicating that the correction resolved the problem. (Test. of McElroy, Tr. Vol. 10, Pgs. 42-43)

On April 23, 2001, BellSouth released a new testing environment for functional testing called the CLP Application Verification Environment (CAVE). CAVE mirrors BellSouth's production environment to ensure that new hardware and software releases facilitate successful order flow before the new releases are introduced to the production environment. (Test. of Pate, Tr. Vol. 3, Pgs. 207-212) CAVE allows testing of all major releases and some "minor" or "point" releases at BellSouth's discretion. CAVE tests the application of new software releases for EDI and TAG, which the CLPs must program on their sides of the interfaces. (Test. of Pate, Tr. Vol. 3, Pgs. 372-373) BellSouth provides documentation of its guidelines for CAVE in its *BellSouth Electronic Interface Testing Guidelines Document*. (Test. of Pate, Tr. Vol. 3, Pgs. 208-209) CLPs may begin testing a major release 30 days before the software is released into production and may continue 60 days after such release. BellSouth has implemented a CAVE help desk available during regular business hours. However, CLPs have access to CAVE 24 hours a day. LENS and RoboTAG™ are not included in the CAVE test environment because they are human-to-machine interfaces. (Test. of Pate, Tr. Vol. 3, Pgs. 211-212) AT&T and WorldCom complain about the exclusion of LENS and RoboTAG™ from CAVE, but neither has submitted a change request asking for the inclusion of these interfaces, nor did any other CLP. CAVE has become unavailable until December 2001 due to the implementation of new releases, which will include functionality for the testing of xDSL transactions that are part of the Corporate Gateway. (Test. of Pate, Tr. Vol. 3, Pgs. 371-376; Tr. Vol. 4, Pg. 64)

(e) **Performance Measures and Data Integrity**

BellSouth proposes in this docket that the Commission adopt an interim set of performance measures until the Commission issues a decision in its generic performance measures docket - Docket No. P-100, Sub 133k. BellSouth notes that its proposed interim measurements are those required by the GPSC in its January 16, 2001, Order in Docket 7892-U. BellSouth has been filing monthly reports with North Carolina-specific data pursuant to the measurements established by the GPSC. BellSouth states that these measurements are voluminous and cover every aspect of its performance. There are approximately 1,200 measurements of CLP performance and another 600 retail analogs of BellSouth's performance. (Test. of Varner, Tr. Vol. 8, Pgs. 382-384) **[COMMISSION NOTE:** Since BellSouth provided this testimony and evidence in this record, the Commission has issued its *Order Concerning Performance Measurements and Enforcement Mechanisms* in Docket No. P-100, Sub 133k. By Order dated May 22, 2002, the Commission adopted a comprehensive performance measurement plan and enforcement plan which was to become effective June 21, 2002. However, BellSouth has filed a Motion for Reconsideration of the Commission's May 22, 2002 *Order Concerning Performance Measurements and Enforcement Mechanisms.* Therefore, BellSouth's North Carolina-ordered performance measurement plan and penalty plan did not become effective on June 21, 2002, but the effective date will be established at a later time as determined by the Commission. In the Commission's May 23, 2002 *Notice of Decision* in this docket, the Commission concluded that the performance measurement plan and remedy plan currently in effect in Georgia are adopted for BellSouth until the effective date of the *Order Concerning Performance Measurements and Enforcement Mechanisms* in Docket No. P-100, Sub 133k. The *Notice of Decision* also stated that any penalty payments will be subject to true-up as of the effective date of the North Carolina plan. The Commission required BellSouth to notify the

Commission within five days of any changes made by the Georgia PSC to the SQM and penalty plans currently in effect in Georgia. The Commission also required BellSouth to notify the Commission and all Parties to this proceeding within five days of any changes to its calculations, exclusions, or rules regarding the SQM or penalty plan with a full explanation.]

BellSouth asserts that an enforcement mechanism is unnecessary until BellSouth exercises interLATA authority. An interim enforcement mechanism would only be necessary if BellSouth receives interLATA authority before permanent measures and enforcement mechanisms are implemented in Docket No. P-100, Sub 133k. If this occurs, BellSouth proposes that the Commission use as an interim measure the enforcement mechanism BellSouth proposed in the performance measures docket. BellSouth disputes NewSouth's assertion that BellSouth should be required to operate under a penalty plan prior to receiving Section 271 approval. BellSouth points out that the FCC has clearly said that the purpose of a voluntary self-effectuating enforcement mechanism (SEEM) is to guard against backsliding after the RBOC begins to provide interLATA services. According to BellSouth, the FCC has reiterated that an enforcement plan is not a prerequisite to checklist compliance, but rather a factor in determining whether the RBOC's entrance into the interLATA market would serve the public interest.[80] (Test. of Varner, Tr. Vol. 8, Pgs. 384-385, and 528-530) **[COMMISSION NOTE:** The Commission's May 22, 2002 *Order Concerning Performance Measurements and Enforcement Mechanisms* concludes that BellSouth's penalty plan should become effective on June 21, 2002 and, therefore finds that a penalty plan is necessary before BellSouth receives Section 271 approval and exercises its interLATA authority. However, as previously noted, BellSouth has filed a Motion for Reconsideration of the Commission's *Order Concerning Performance Measurements and Enforcement Mechanisms*. Therefore, BellSouth's North Carolina-ordered performance measurement plan and penalty plan did not become effective on June 21, 2002, but the effective date will be established at a later time as determined by the Commission. Also, the Commission concluded in its May 23, 2002 *Notice of Decision* in this docket "That the Service Quality Measurement and penalty plans currently in effect in Georgia are adopted for BellSouth until the effective date of the *Order Concerning Performance [Measurements] and Enforcement Mechanisms* in Docket No. P-100, Sub 133k (i.e., June 21, 2002). Any penalty payments will be subject to true-up as of the effective date of the North Carolina plan. . ." (Page 2)]

BellSouth's proposed enforcement plan would require it to pay penalties based on the number of transactions that fall below the metric. Thus, the more competition, the higher the penalty for the same level of performance; conversely, the less competition, the lower amount of penalty payments for the same level of performance. However, apart from the SEEM penalty plan, if BellSouth backslides from a certain level of performance, it could lose interLATA relief or receive other sanctions from this Commission or the FCC. (Test. of Varner, Tr. Vol. 8, Pgs. 384-385, and 528- 530; Tr. Vol. 9, Pgs. 81- 82)

KPMG's third-party test verified the processes by which BellSouth tracks and calculates performance data. BellSouth asserts that the test found that its data are accurate and reliable. KPMG is now conducting its third audit of BellSouth's metrics. In the original third-party test (Phase I of the audit), KPMG closed as satisfied 411 of the 420 tests. In Phase II of the audit, KPMG matched 96% of the metrics with data with work continuing on the remaining 4% in conjunction with Phase III testing. (Test. of Varner, Tr. Vol. 8, Pgs. 438-439)

The PMAP is the system utilized to produce most of the SQM values. The PMAP has an enormous capacity, but BellSouth is developing a next generation PMAP platform where data can be processed on a daily basis rather than by taking a monthly snapshot as the current PMAP does. (Test. of Varner, Tr. Vol. 8, Pgs. 432-436)

BellSouth verifies and validates its SQM data in several ways to maintain data integrity and avoid losing data. BellSouth's systems have internal quality assurance controls. Further, BellSouth has implemented manual data validation processes. KPMG has also conducted a third-party audit of BellSouth's performance data generation process. Finally, the GPSC is monitoring the PMAP reports and has required that they be audited annually by an outside auditor for the next five years. BellSouth maintains that these review and monitoring processes are more stringent than those in place in New York at the time the FCC approved Verizon's application for Section 271 authority. (Test. of Varner, Tr. Vol. 8, Pgs. 436-437)

BellSouth disputes AT&T's allegation that it has violated the GPSC's January 12, 2001, *Performance Measures Order* by modifying measures without approval. BellSouth did exclude nonbusiness hours from the interval calculation for partially mechanized LSRs, and the GPSC subsequently adopted BellSouth's SQM without altering the nonbusiness hour exclusion. BellSouth asserts that it made no modifications in the calculations of any measurements, only wording changes to further clarify the SQM describing the measurements. BellSouth asserts that the Commission states its objectives and specifies what must and must not be done; BellSouth must apply that intent to each specific situation to accomplish the Commission's intent. In short, BellSouth believes a

Commission expects BellSouth to use common sense which AT&T finds objectionable for some reason.

In regard to exclusion of projects, BellSouth states that projects fall outside of the normal process and thus should not be included in a measurement to examine performance under normal operating conditions. (Test. of Varner, Tr. Vol. 8, Pgs. 484-492) Pursuant to complaints by AT&T about other data excluded from metrics, BellSouth is either investigating the possibility of including the data in question or has already updated its processes or corrected the errors. (Test. of Varner, Tr. Vol. 8, Pgs. 447- 450)

BellSouth acknowledges that its flow-through numbers were in a state of flux due to several revisions it made to the numbers for June, July, and August 2001. (Test. of Pate, Tr. Vol. 4, Pgs. 23-39) BellSouth requests that the Commission not rely upon the FOC and Reject Response Completeness metric because it is currently incorrectly reported. BellSouth must conduct further investigation and modify codes before the reported data is accurate. However, BellSouth avers that its investigation of the issue has not revealed that orders or the associated responses have been lost. There is also an understatement of performance results for the Reject Interval, Intervals for Residence Resale and Business Resale, and FOC Timeliness for LNP stand alone, FOC/Reject Completeness, and LNP Disconnect Timeliness metrics. The Average Jeopardy Notice Interval currently being calculated does not produce relevant data. BellSouth planned to correct this problem in October 2001. (Test. of Varner, Tr. Vol. 8, Pgs. 452-454, 477, 503-504)

BellSouth asserts that it has provided reliable SQM data and that the Georgia, Louisiana, and Mississippi commissions have agreed. Thus, in BellSouth's view, there is no need to wait for this Commission to enact a permanent set of performance measures before making a recommendation on BellSouth's application for Section 271 authority. (Test. of Varner, Tr. Vol. 8, Pg. 482) BellSouth points out that recently the Georgia, Louisiana, and Mississippi commissions concluded that BellSouth met the 14-point checklist, relying, in part, on the performance data produced utilizing the Georgia SQM. Due to the size of the PMAP and the amount of data, BellSouth admits that the data was not perfect when those commissions reviewed them and the data is still imperfect. Nonetheless, BellSouth contends that the data is reliable and sufficient for this Commission to evaluate BellSouth's checklist compliance. (Test. of Varner, Tr. Vol. 8, Pgs. 431-432)

In response to criticism by AT&T regarding the sufficiency and integrity of the performance measure data, BellSouth contends the data it has produced for three years in Georgia was sufficient for the GPSC to find checklist compliance in Georgia despite the fact that there was data excluded from the SQM calculations and that there were still several open third-party test exceptions. However, BellSouth states that these exceptions merely indicate that KPMG has not yet finished its work. (Test. of Varner, Tr. Vol. 8, Pgs. 441-442)

At the close of its third-party testing in Georgia, KPMG found that 21 of the criteria involving performance measures were not complete. Work is continuing on those items, and KPMG should issue a supplemental report addressing these issues. At the time of the hearing in Georgia, four exceptions were open and nine tests out of 420 in the performance measures section were incomplete. (Test. of Varner, Tr. Vol. 8, Pgs. 400 and 560)

BellSouth encourages the Commission to use performance data as one tool for determining whether it is meeting the checklist requirements. BellSouth contends that to evaluate performance data correctly, the number of transactions must be high enough for the measurement to be meaningful, the measure should accurately reflect the process being measured, and the standards should be reasonable. (Test. of Varner, Tr. Vol. 8, Pgs. 545-546)

BellSouth maintains that it should not be required to provide access to its early stage data as requested by AT&T because the early stage data contains unformatted and unlinked transaction data in different legacy systems and tables that have not been normalized. Early stage data is the data available in the SNAP database prior to PMAP processing. Thus, BellSouth states that some of the data are neither relevant nor necessary to validate interim SQM reports. Disclosure of early stage data could jeopardize the confidentiality of individual CLP data because it has not been filtered for CLP-specific data. Moreover, BellSouth asserts that the size of the files would be so large and the amount of data so great that CLPs would have to build their own PMAP to evaluate the data. Instead, BellSouth claims that its raw data provided to CLPs allows them to verify the performance reports and replicate the interim SQM reports. In response to criticism by AT&T about the reliability of the raw data, BellSouth responds that in the majority of cases where CLPs cannot produce reports using the raw data, the CLPs are not using the data properly. (Test. of Varner, Tr. Vol. 8, Pgs. 442-444, and 493)

BellSouth disputes AT&T's contention that its penalty payments in Georgia indicate poor performance. Instead, BellSouth asserts that these penalties with two exceptions are the result of random occurrences or flawed measurements. BellSouth has proposed new metrics to replace the measurements it believes are flawed and has increased training and fixed its systems to correct these problems. (Test. of Varner, Tr. Vol. 8, Pgs. 469- 474)

Turning to BellSouth's actual performance in North Carolina in April 2001, BellSouth met or exceeded the benchmark or retail analogues for 443 of the 531 submetrics (83%) in which there was CLP activity. In May 2001, BellSouth met or exceeded the benchmark or retail analogues for 496 of the 620 submetrics (80%) in which there was CLP activity. In June 2001, BellSouth met or exceeded the benchmark or retail analogues for 480 of the 589 submetrics (81%) in which there was CLP activity. In July 2001, BellSouth met or exceeded the benchmark or retail analogues for 544 of the 644 submetrics (84%) in which there was CLP activity. In August 2001, BellSouth met or exceeded the benchmark or retail analogues for 579 of the 673 submetrics (86%) in which there was CLP activity. (Test. of Varner, Tr. Vol. 8, Pg. 532)

While AT&T contends that these numbers show BellSouth's performance to be deficient, BellSouth asserts that these numbers do not evaluate the significance and causes of the performance that does not meet the standards. BellSouth attributes such performance in part to: (1) low volumes which make the data inconclusive; (2) transactions that should be excluded; (3) human error; and (4) programming changes for the measurements. (Test. of Varner, Tr. Vol. 8, Pgs. 480- 481)

(f) UNE Combinations

BellSouth states that it gives CLPs access to UNEs so that they can combine the UNEs at their discretion in virtual and physical collocation and assembly point arrangements. It also will provide additional services at the request of CLPs through its SGAT and the Bona Fide Request process. (Test. of Cox, Tr. Vol. 2, Pgs. 134- 136; Test. of Milner, Tr. Vol. 8, Pgs. 52-57) According to BellSouth, its provisioning of UNEs is the same whether a CLP will use the UNE in isolation or will combine UNEs. (Test. of Cox, Tr. Vol. 2, Pgs. 135-136) BellSouth provides access to network elements that are actually currently combined in BellSouth's network. BellSouth will not separate network elements that are, in fact, currently combined unless so requested. (Test. of Milner, Tr. Vol. 8, Pgs. 52-53)

BellSouth provides new combinations of loop and transport in Charlotte and Greensboro. The FCC does not require BellSouth to unbundle local switching in these areas if it provides these combinations. (Test. Cox, Tr. Vol. 2, Pg. 138) In some cases, BellSouth provides its "QuickService", where it has combined a loop and port and there is dial tone on the line, but no service to a particular customer at a location. When BellSouth provides "QuickService" at a particular location, it will provide the combination to a CLP at cost-based rates. If a CLP has self-certified that it is providing a significant amount of local exchange service over special access facilities, it may convert the special access facilities to EELs pursuant to the UNE Remand Order and the Supplemental Clarification Order. (Test. of Cox, Tr. Vol. 2, Pgs. 138-139) As of February 28, 2001, BellSouth has provided CLPs with 23,965 loop and port combinations in North Carolina and 273,059 regionally. As of the same date, BellSouth provided 73 loop and transport combinations to CLPs in North Carolina. (Test. of Milner, Tr. Vol. 8, Pg. 55)

BellSouth's rates for combinations are contained in Attachment A of its SGAT. If a CLP requests to purchase an existing combination of UNEs that are not listed in their combined form in Attachment A, it will be charged the sum of the stand-alone prices of the elements that make up the combination. (Test. Cox, Tr. Vol. 2, Pg. 140) BellSouth is also willing to provide new combinations, but at a negotiated rate, rather than a TELRIC-based rate. The negotiated rate includes a "glue charge", the difference between the cost-based and negotiated rates. BellSouth points out that the FCC does not require a BOC to provide new combinations at cost-based rates to receive Section 271 approval, but rather to provide combinations that are preassembled or preexisting in the BOC's network.[81] (Test. of Cox, Tr. Vol. 2, Pgs. 229-231) BellSouth contends that it adheres to the Act and the FCC rules in its provision of combinations. (Test. of Cox, Tr. Vol. 2, Pg. 235)

(g) <u>UNE Pricing</u>

BellSouth argues that this Commission has scrutinized the cost studies that support the current UNE rates in several phases of Docket No. P-100, Sub 133d, and Docket No. P-100, Sub 133j. (Test. of Caldwell, Tr. Vol. 3, Pgs 120B-120K) It points out that the Commission determined in Docket No. P-100, 133d, that BellSouth's methodology and cost studies complied with the FCC's TELRIC principles and with the Act. In response to testimony of SECCA witness Gillan that current UNE rates are too high and thus stunt the growth of competition, BellSouth points out that the Commission's role is not to set low rates but to set cost-based rates, which the Commission has done. (Test. of Cox, Tr. Vol. 2, Pg. 225)

In its cost studies filed in Docket No. P-100, Sub 133d, BellSouth relied on a statistically valid sample of single-line loops, using existing wire center locations and existing cable routes, sizes and type of placement as the most accurate forecast of future characteristics of the network. BellSouth contends that these routes and placements are the same that BellSouth is likely to use in the future. (Test. of Caldwell, Tr. Vol. 3, Pgs. 120B-120K)

BellSouth has introduced a new loop cost model in the second round of UNE pricing dockets in other states, which eliminates some of the limitations inherent in sampling. However, all state commissions in the BellSouth region adopted BellSouth's original Loop Model, with modified inputs, to develop TELRIC-based costs to determine their initial UNE rates. This is the model on which North Carolina's UNE rates are based. BellSouth explains that costs are continually in flux, and it does not violate the FCC's TELRIC principle if it does not continually change its UNE rates as well. BellSouth points out that the cost studies contain BellSouth's best estimates of its costs, and that as some costs have fallen, others have increased. (Test. of Caldwell, Tr. Vol. 3, Pgs. 120B-120K)

In this docket, BellSouth has filed cost studies for remote terminal and virtual collocation elements, cable records, the assembly point arrangement, and the UCL-ND, including engineering information and testing. (Test. of Caldwell, Tr. Vol. 3, Pgs. 116-120) BellSouth argues that the cost studies for these new elements utilize the same methodology and models previously approved by the Commission. BellSouth requests that the Commission set interim rates for these elements equal to the costs submitted by BellSouth and that any final adjustments to these elements be incorporated at a later time.

The proposed cable records charge reflects the costs for BellSouth to build cable records in its systems so that a CLP may place orders to cross-connect network elements to their collocated equipment. The cable records are built after a collocation application is processed. Because BellSouth would input cable records pursuant to a CLP's request to collocate equipment in a BellSouth central office, BellSouth contends that it is entitled to recover the one-time costs associated with this work as a nonrecurring charge. BellSouth states that it has billed WorldCom in the past for cable facility records and recovered these costs by applying additional engineering charges. (Test. of Caldwell, Tr. Vol. 3, Pgs 120I-120K) Finally, BellSouth maintains that it is not required to provide co-carrier cross connects to CLPs because it allows CLPs to provide their own co-carrier cross connects.

BellSouth states that this proceeding is an appropriate forum in which to establish UNE rates for these elements for which rates have not yet been set, and that it would be inefficient to open a proceeding just to establish rates for a small number of UNEs. Further, BellSouth asserts that all parties were given sufficient opportunity to participate in the determination of rates for loop-port combinations and that the Commission properly adjudicated this issue.

CLP Testimony

(a) Nondiscriminatory Access to OSS

AT&T contends that BellSouth's LCSCs do not answer calls as promptly as representatives for BellSouth's retail service centers. While BellSouth's performance for the LCSC is better than for its own retail residential operations, the LCSCs' hold times are far longer than for BellSouth's business service center. These longer hold times require AT&T to increase its personnel to makeup for the time its employees spend awaiting assistance from BellSouth and delay the resolution of its customer's problems. (Test. of Berger, Tr. Vol. 10, Pgs. 498-500)

AT&T argues that BellSouth does not meet the requirements of Checklist Item 2 because it fails to provide electronic OSS for CLP line splitting orders. (Test. of Turner, Tr. Vol. 10, Pgs. 570- 571) AT&T points out that the FCC in its *Line Sharing Reconsideration Order* at ¶20 stated as follows:

> [I]ncumbent LECs are required to make all necessary network modifications to facilitate line splitting, including providing nondiscriminatory access to OSS necessary for pre-ordering, ordering, provisioning and maintenance and repair, and billing for loops used in line splitting arrangements.

AT&T points out that BellSouth failed to meet the standard for 16.6% of the submetrics in April 2001, 20% in May 2001, and 18.5% in June 2001. BellSouth's flow-through performance is also well below the 90% objective. (Test. of Norris, Tr. Vol. 10, Pgs. 643-644)

AT&T contests BellSouth's assertion that commercial usage alone shows that its OSS is operationally ready. Access is not the same as nondiscriminatory access. Commercial usage does not show the efficiency and effectiveness of the CLPs' processes compared with BellSouth's processes. The commercial usage numbers do not provide any information about timeliness, accuracy, functionality, reliability, or customer satisfaction. (Test. of Bradbury, Tr. Vol. 11, Pgs. 23-25)

In attempting to provide customers service through the UNE-P in Florida and Georgia, AT&T has had customers lose service due to faulty BellSouth procedures and has also been affected by the instability of the LENS system and the back-end systems connected to LENS. The loss of dial tone has been in part caused by BellSouth's failure to properly sequence and relate the "D" and "N" orders. If BellSouth does not process the orders in the proper sequence, the customer's service is disconnected pursuant to the "D" order before the conversion is completed pursuant to the "N" order. These two orders should be related so they are not worked independently and in the wrong sequence. AT&T does not believe this problem will be corrected until BellSouth implements the single "C" order.

From August 1, 2000, through August 31, 2001, LENS has experienced 173 outages, lasting from three minutes to as much as five days. LENS is the principal interface AT&T uses to order UNE-P. (Test. of Bradbury, Tr. Vol. 11, Pgs. 117-129)

(i) <u>Pre-Ordering Functions</u>

Covad contends that BellSouth does not have adequate processes in place to acknowledge that CLPs have submitted loop makeup orders. CLPs must seek the status of their orders through the PON status report or by contacting the CRSG. According to Covad, BellSouth's retail operations do not have to seek out an acknowledgment of a loop makeup order. Further, it is unclear whether BellSouth makes adequate acknowledgment of orders submitted by facsimile. Covad alleges that BellSouth does not respond adequately to loop makeup inquiries received by e-mail and points to KPMG's experience of receiving a response for only 94.5% of the total transactions it submitted. (Test. of Davis, Tr. Vol. 10, Pgs. 84-85)

WorldCom requests that BellSouth provide a fully fielded and parsed CSR to allow CLPs to populate LSR customer fields automatically, which would eliminate another source of rejects. (Test. of Lichtenberg, Tr. Vol. 10, Pg. 190)

Sprint questions the ability of CLPs to obtain loop makeup using BellSouth's electronic interface for obtaining loop makeup information. Sprint believes that the amount of loop qualification contained in LFACS varies widely by wire center, ranging from 0% to 99.4%. If the data source is inadequate, CLPs will have to use manual processes to obtain loop makeup information. Therefore, many times a CLP will be forced to use the manual Loop Makeup Service Inquiry process and be subject to the longer interval associated with it. CLPs cannot place orders for unbundled loops without including an FRN, which only can be obtained through a loop makeup service inquiry. While Sprint wants to have LFACS available as an option, it does not want to be required to use it until the problems with LFACS are corrected. Sprint believes that if LFACS does not have the necessary information, a CLP should be allowed to order a loop without the associated FRN. Further, to aid CLPs in obtaining information, Sprint also requests that BellSouth provide scanned images of the paper plats that contain the schematics of the loop loaded onto CD-ROMs or other media to all CLPs requesting them, to the extent that BellSouth has such scanned images. This could serve as an interim measure to aid CLPs in obtaining the information they seek until full electronic access is available. (Test. of Felton, Tr. Vol. 10, Pgs. 464-468)

AT&T maintains that BellSouth does not provide nondiscriminatory access to pre-ordering functions as evidenced by its failure to provide parsed CSRs at parity, deficiencies in its provision of pre-order due date calculations, its excessive OSS response times, and its excessive LCSC answer times. BellSouth's retail OSS will have superior parsing functionality compared to that available to CLPs until at least January 2002. The due-date calculators sometimes provide the wrong date or do not calculate a due date at all. Deficiencies in the due-date calculator can cause CLP orders to fallout for manual processing and result in the quicker processing of BellSouth orders which are less likely to fallout for manual handling. According to AT&T, BellSouth does not provide reliable performance data to evaluate pre-ordering response times because it is unclear whether BellSouth is measuring the proper interval and the integrity of BellSouth's performance data for pre-ordering response times is questionable. The answer times for the LCSCs are two to three times the answer times at BellSouth's Business Service Center. (Test. of Bradbury, Tr. Vol. 11, Pgs. 44-58)

(ii) Ordering Functions

Covad alleges that it has encountered a number of problems with the LENS ordering interface. According to Covad, LENS is down a significant amount of time, and it cannot submit orders during such down time except by manual processes. For April 2001, Covad contends that its order administration unit lost 295.3 production hours due to the unavailability of LENS. The documentation for LENS is also inadequate and causes Covad to make unnecessary errors. When Covad first began using LENS, it encountered significant problems. Covad contends the interface had not been adequately tested. It is also having difficulty ordering line sharing through LENS. Covad also cannot order IDSL/UDC through LENS or any other electronic interface. Covad recommends that this

Commission wait until the Florida third-party test is completed, where KPMG is testing the ordering of xDSL services via LENS before issuing an order in this case. (Test. of Davis, Tr. Vol. 10, Pgs. 93- 97, 123)

BellSouth developed the IDSL/UDC loop specifically for Covad. In the Alabama Section 271 hearing, Covad acknowledged that low volume services may not justify electronic ordering. (Test. of Davis, Tr. Vol. 10, Pgs. 141-143)

Covad also complains that BellSouth does not have a single central database from which to obtain information on an order; rather it must consult a number of databases and interfaces or call the LCSC to obtain the status of some orders. According to Covad, BellSouth's retail operations do not have to search a number of sources for order status information. (Test. of Davis, Tr. Vol. 10, Pgs. 98-99)

In Covad's estimation, BellSouth does not provide the same level of customer service to its CLP customers as it does for its retail customers in its LCSC. Covad contends that there is no automatic call routing system in the LCSC to ensure calls are answered in a timely manner. Covad also complains that when it calls about an erroneous clarification, it is transferred to the BellSouth representative who ordered the clarification who may not be available. Covad believes it should be able to submit orders and other information by e-mail rather than by facsimile. (Test. of Davis, Tr. Vol. 10, Pgs. 100-101)

WorldCom contends that some of its customers have experienced a loss of dial tone due to BellSouth's two-order process involving the coordination of the "N" and "D" orders. To remedy this problem, WorldCom asserts that BellSouth must have a single order process in place before it can claim that it provides parity service. However, for the period May 15, 2001, through the end of August 2001, BellSouth performed approximately 97% of WorldCom's conversions without a loss of dial tone. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 178-182)

WorldCom proposes that BellSouth reduce its level of manual handling of orders. For WorldCom orders, the manual fallout rate for June was 30.36%; for July it was 29.97%. WorldCom disagrees with BellSouth's claim that a number of the LSRs which fell out should be recategorized as occurring due to CLP error or an error in BellSouth's due-date assignment routine. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 181-182)

WorldCom has also experienced problems with missing FOCs and CNs. WorldCom is meeting daily with BellSouth about these problems and has opened trouble tickets.

BellSouth has been unable to provide the EDI tracking numbers, so WorldCom has had to conduct internal research to handle the problem. It appears that this problem is partly due to BellSouth's system overwriting and losing the data. However, this problem has occurred with only .0083% of WorldCom's orders during June through August 2001. There has also been a problem with hold file errors where customers are being double billed. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 183-184, and 258)

In June 2001, 15.66% of WorldCom's LSRs that flowed through without manual intervention were rejected, while 43.66% of the manually handled LSRs were rejected. WorldCom contends that it receives some unclear or incorrect rejection notices. Overall, WorldCom's rejection rate was approximately 25% in June. Approximately 22% of those rejects are due to BellSouth's requirement that WorldCom provide a complete address though no installation is required, i.e., the customers are simply changing the ownership of their account from BellSouth to WorldCom. WorldCom believes that this requirement should be removed and has requested such in the change management process. While BellSouth was to remove this requirement on or about November 3, 2001, it notified CLPs just before the change was to take place that 30% of orders would be rejected due to the RSAG having multiple addresses for a single telephone number. BellSouth encouraged CLPs to continue to provide a proper address to maintain the current level of flow-through until such time as BellSouth can correct the defect. Additionally, the Order of the Georgia Commission ordered BellSouth to implement the migration <u>by name and telephone number</u> on November 3rd. BellSouth's implementation is merely the telephone number which WorldCom contends causes problems. This change requires WorldCom to change its interfaces, and it was not given adequate opportunity to test the change. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 184-186, and 276-279)

Because BellSouth cancels rejected LSRs within 10 days if not corrected and resubmitted, WorldCom can miss that deadline while trying to correct a problem and have to start the process over. WorldCom believes that the deadline should be extended to 30 days. In other states where WorldCom has entered the local residential business, the Bell Operating Companies allow at least 30 days before cancellation. (Test. of Lichtenberg, Tr. Vol. 10, Pg. 191)

WorldCom also requests that BellSouth implement real-time ordering using the interactive agent. Because BellSouth has not implemented the interactive agent technology, WorldCom asserts that it must use its own third-party value added network provider to link to BellSouth's third-party value added network to process orders. The interactive agent protocol would decrease the chance of lost or misrouted orders, lower process times, and avoid the cancellation of rejected orders before they can be corrected.

However, the interactive agent received a low priority (21 or 26 of 31) in the CCP when evaluated by all CLPs. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 190, and 254-255)

Broadslate contends that it has been unable to order the UCL-ND on a timely and reliable basis and has been forced to order a more expensive product to serve its customers. In May 2001, Broadslate amended its interconnection agreement with BellSouth to incorporate the UCL-ND and first tried to order the product in June. Broadslate was unable to order the UCL-ND through LENS. LCSC personnel said they had not seen orders for the product before and were unable to accommodate orders for it. Subsequent assurances that ordering problems in the LCSC had been resolved prompted Broadslate to again try to order the UCL-ND in July manually. BellSouth missed 25% of the FOC dates it provided and issued revised dates. BellSouth missed almost 50% of the revised dates. Two customers lost service because of BellSouth's inability to provision the product on time. Several of the orders were lost or canceled for no apparent reason. Based on our record of evidence, Broadslate was not ordering the UCL-ND due to these problems but was ordering a more expensive product, UCL-shorts, as a substitute. (Test. of Whitaker, Tr. Vol. 10, Pgs. 358-364)

Broadslate states that BellSouth has lost and canceled orders placed through LENS and disconnected Broadslate customers. When Broadslate calls the LENS help desk, it is referred to the LCSC. The LCSC then refers it back to the LENS help desk. (Test. of Whitaker, Tr. Vol. 10, Pg. 364)

Flow-through of orders is critical in demonstrating whether a BOC is processing CLP orders in a nondiscriminatory manner. AT&T maintains that BellSouth fails to provide timely order status notices when CLP LSRs fallout for manual processing. According to AT&T, it takes approximately 18 hours or longer for BellSouth to provide a FOC or a rejection notice if an electronic LSR falls out for manual handling. On the other hand, it takes less than 15 minutes for a CLP to receive a FOC or a rejection notice if the electronic order does not fallout. Further, electronic LSRs that fallout for manual processing have substantially later due dates than those that flow-through. LSRs that fallout for manual handling risk more input errors due to the manual handling. Finally, electronic orders that flow-through are less expensive for the CLP and BellSouth. AT&T alleges that BellSouth's flow-through performance for CLPs was getting progressively worse, with 79% of electronic orders flowing through in January 2001 and 74% of electronic orders flowing through in July 2001. According to BellSouth, 94% of BellSouth's residential retail orders flow through without manual processing. BellSouth does not report its flow through rate for business orders. In July 2001, 29% of orders sent through EDI, 23% of orders sent via LENS, and 35% of orders sent through TAG fell out for manual handling. These numbers include both orders that failed to flow through and orders that were designed to fallout for manual handling. The GPSC ordered the creation of an Improvement Task Force devoted to the improvement of BellSouth's flow-through performance, but AT&T contends that the results have been disappointing, as the rate of manual fallout has generally increased since the task force was created. (Test. of Bradbury, Tr. Vol. 11, Pgs. 58-74, and 200)

AT&T asserts that BellSouth is not providing timely FOC notifications or rejection notices for electronic LSRs that fallout for manual processing. CLPs generally receive FOCs in 15 minutes or less and rejection notices in eight minutes or less for LSRs that flow through without manual intervention. Whereas, orders that fallout for manual handling have FOCs or rejection notices issued in 18 hours or more on average. AT&T suggests that there does not appear to be any significant barrier to BellSouth being able to process partially mechanized LSRs in three hours or less. (Test. of Bradbury, Tr. Vol. 11, Pgs. 80-84)

(iii) <u>Provisioning Functions</u>

KMC complains that even after BellSouth provides an FOC and KMC has notified its customer of the installation date, BellSouth frequently puts the orders in "pending facility" status (facilities are not available) at the last minute. From September 2000 through April 2001, BellSouth missed 23% of KMC's installation appointments in North Carolina. (Test. of Withers, Tr. Vol. 10, Pg. 387)

AT&T points out that BellSouth's jeopardy notice interval for April 2001 is between 9 and 25 days, exceeding the target provisioning intervals for most items. BellSouth also frequently fails to provide CNs to CLPs and the CNs provided may contain an incorrect completion date. While the PON Status Report, the Pending Facilities Report, and CSOTS all provide valuable information, they do not provide any information about the time between the submission of an order and the time a FOC or rejection notice is received by a CLP. Unlike BellSouth's retail operations, CLPs cannot view a conflicting pending order to resolve the underlying conflict and prevent fallout and order rejection. Because BellSouth's retail representatives can view the conflicting pending order, BellSouth is able to resolve the underlying conflict immediately. Whereas, the CLP, being unable to view the pending order, must either wait until the LCSC reviews the order or must call the LCSC, introducing cost and delay into the CLP's process. (Test. of Bradbury, Tr. Vol. 11, Pgs. 84-88)

(iv) Maintenance and Repair Functions

AT&T contends that TAFI and ECTA do not provide CLPs with a meaningful opportunity to compete; TAFI has more functionality but is not integratable, while ECTA has less functionality but is integratable. TAFI is a human-to-machine interface which means that CLPs cannot integrate their own internal OSS with TAFI. Consequently, a CLP using TAFI must manually input trouble reports twice – once into TAFI and then again into its own internal OSS. TAFI does not cover services that are not associated with a telephone number. Therefore, CLPs would have to submit those trouble reports manually or through ECTA. In contrast, ECTA, a machine-to-machine interface, allows CLPs to input all trouble reports once into a single system. However, ECTA has significantly less functionality than TAFI. On April 18, 2000, AT&T submitted a change request through the Interim Change Control Process asking for TAFI functionality via the ECTA interface. (Test. of Bradbury, Test. Vol. 11, Pgs. 88-94)

(v) Billing Functions

WorldCom contends that BellSouth does not update its billing system properly and rapidly. It points to its orders that fall into a hold file for more than 30 days and are double billed. These orders in the hold file also do not generate daily usage files and thus the CLPs cannot bill for service. WorldCom has requested a new notifier, the Billing Completion Notifier, to alert CLPs to orders that have not yet gone through the billing change process, but BellSouth's change control team has canceled this request on the basis that billing issues are not covered by the CCP. WorldCom has taken this request for a notifier to the OBF, which has not made a firm ruling yet. However, the OBF can only issue a recommendation, it cannot require BellSouth to make the requested notification. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 186-188, 271-272) [**COMMISSION NOTE:** The FCC in the *GALA II Order* in ¶175, states: "we reject WorldCom's claim that, after the provisioning of an order is completed, delays in adding the new information to BellSouth's billing system cause significant competitive harm that could be solved if BellSouth provided billing completion notifiers. While it recognizes the benefits of billing completion notifiers, the Commission has previously approved section 271 applications where the BOC does not provide such a notifier."]

WorldCom also claims that BellSouth has failed to issue line loss reports for some customers who have migrated to another carrier or returned to BellSouth, thereby causing billing problems. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 221-222)

WorldCom further contends that the DUF records are incorrectly formatted and do not meet EMI standard format and syntax. BellSouth claims to have fixed the problem, but it continues according to WorldCom. WorldCom has not been able to get assistance on this issue from its Account Team or the BellSouth Help Desk. (Test. of Lichtenberg, Tr. Vol. 10, Pg. 188)

Broadslate contends that BellSouth's bills are fraught with incorrect information and errors. The aging reports BellSouth uses to generate its bills are inconsistent from month to month, do not list some items in dispute, and show some items as disputed that have been resolved. Broadslate concludes that BellSouth is not operationally ready to provide billing to CLPs. (Test. of Hochrein, Tr. Vol. 10, Pgs. 352-356)

Some AT&T customers continue to receive bills from BellSouth after they have switched to AT&T local service and the number has been ported. AT&T attributes this to BellSouth's difficulty in partially porting a subset of a customer's numbers. (Test. of Berger, Tr. Vol. 10, Pgs. 515-517)

(b) Third-Party Test

Covad contends that the Commission should not rely on the Georgia third-party test of BellSouth's OSS for xDSL loops and line sharing. KPMG did not test the electronic ordering of stand-alone xDSL loops; the ability of BellSouth's systems to handle high volumes of orders for stand-alone xDSL loops; missed appointment and jeopardy notifications or processes for stand-alone xDSL loops; electronic ordering of line shared loops; provisioning of line sharing; missed appointment and jeopardy notifications for line sharing; pre-ordering, ordering, and provisioning of IDSL loops; electronic loop makeup information; or LENS. These processes and systems are critical to DSL providers. Thus, Covad argues that there is no evidence that BellSouth provides nondiscriminatory access to OSS for DSL providers in North Carolina. (Test. of Davis, Tr. Vol. 10, Pgs. 81-83)

According to Covad, KPMG did not evaluate the mechanized loop makeup process because the functionality was not introduced until the end of 2000. KPMG's test of the manual loop makeup process resulted in 68% of the orders being returned to KPMG or rejected. Covad contends that this 68% clarification or rejection rate mirrors what CLPs experience. (Test. of Davis, Tr. Vol. 10, Pgs. 83-84)

Covad disagrees with KPMG's exercise of its professional judgement in determining that tests of the TAG interface showed statistically significant deviation from retail but had a reasonable response time. KPMG overrode the GPSC's standard and its own evidence of statistically significant discrimination. By passing BellSouth on these tests, Covad claims KPMG removed any incentive for BellSouth to improve its systems. (Test. of Davis, Tr. Vol. 10, Pgs. 85-88)

Covad contends that KPMG's testing of xDSL failed to test critical aspects of the process. Further, the test bed was not realistic because it ordered xDSL loops that were clean copper and that easily flowed through the system, which is the best case scenario. KPMG did not test electronic ordering of xDSL because it was not available until February 2001. Covad also contends that KPMG's test for xDSL loop provisioning was inadequate due to the insufficient volume and manner of testing. (Test. of Davis, Tr. Vol. 10, Pgs. 88-90)

WorldCom contends that KPMG's testing of the CCP in Georgia did not address all of the problems with the process. Despite concluding that BellSouth's performance was satisfactory, KPMG noted the backlog of CLP change requests and BellSouth's failure to follow the CCP in issuing business rules and notifications of outages. In Florida, there are several open exceptions in the third-party test regarding the CCP. These involve BellSouth's reprioritization of change requests after the initial prioritization by the CCP and BellSouth's failure to issue proper notification of outages. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 212-214)

Sprint contends that there were numerous critical flaws in the Georgia third-party test. There was inadequate CLP input in the design of the test, the test is incomplete, and the test did not examine real life experiences. Sprint maintains that BellSouth developed the MTP with only token CLP input. Sprint questions KPMG's exercise of its professional judgement when it deemed criteria to have been satisfied, though BellSouth's failure to meet the GPSC's standard was statistically significant. According to Sprint, the volume testing was run on an artificial test system because BellSouth did not believe its actual production system could support those volumes. (Test. of Idoux, Tr. Vol. 10, Pgs. 448-452)

AT&T contends that the Georgia third-party test should not be relied upon because there are problems with the data, analysis, and conclusions reached by KPMG. AT&T criticizes KPMG's statistical method, statistical analysis, reliance on aggregated service types, preferential treatment of CLP orders from Georgia, absence of blindness, incorrect implementation of military style testing, and unjustified use of its professional judgement. (Test. of Bell, Tr. Vol. 10, Pgs. 524-549)

According to AT&T, third-party testing in Florida and Georgia has confirmed that BellSouth's flow-through performance is deficient. Based on our record of evidence, in Florida, there were at least seven open exceptions and three open observations related to flow-through. In Georgia, KPMG determined that BellSouth's flow-through did not meet the benchmark standards. However, BellSouth has revised its method for reporting flow-through since the Georgia evaluation and has revised the flow-through reports for March, June, July, and August 2001 due to reporting errors. (Test. of Bradbury, Tr. Vol. 11, Pgs. 156-158)

Based on our record of evidence, the volume testing in Florida was on hold pending resolution of open exceptions. Evidentially, AT&T states, KPMG has determined that it makes no sense to test whether BellSouth's OSS can handle large volumes of orders because KPMG's tests have indicated that the small number of "pseudo CLEC" orders are not being properly processed by BellSouth's OSS. The volume testing in Georgia is not probative because four out of the five volume tests were not conducted on BellSouth's production systems (i.e., those systems that BellSouth actually uses to support CLPs). Rather, the volume tests were conducted on BellSouth's test system called RSIMMS which BellSouth expanded specifically for the volume tests. (Test. of Bradbury, Tr. Vol. 11, Pgs. 159-160)

Based on our record of evidence, in Florida, there were three open exceptions and two open observations in the third-party testing regarding BellSouth's unilateral approach to the CCP. The Georgia third-party testing only involved the determination of whether BellSouth had a documented CCP and not whether the process was effective, the CLPs' needs were satisfied, or BellSouth followed its own process. (Test. of Bradbury, Tr. Vol. 11, Pgs. 160-162)

According to AT&T, relationship management is the process by which BellSouth conducts its wholesale business with CLPs. It includes among other things the implementation of business rules, creation of documentation needed to conduct business, and wholesale customer support operations. The Georgia third-party testing did not conduct a very probative review of relationship management. In the Florida third-party test, there are nine open exceptions and seven open observations regarding relationship management. According to AT&T, these exceptions and observations show that BellSouth's business rules and documentation are deficient and that BellSouth's treatment of its wholesale customers is inferior to the treatment of its retail customers. (Test. of Bradbury, Tr. Vol. 11, Pgs. 162-165)

AT&T contends that KPMG's third-party test in Georgia did not show that BellSouth provides CLPs with nondiscriminatory access to OSS because it did not evaluate areas such as all currently available production versions of interfaces (OSS'99 versions of EDI and TAG, LENS, and RoboTAG™), relationship management, manual systems, the ability of CLPs to build interfaces based on BellSouth's documentation, or LNP metrics. Nor was KPMG sufficiently independent of BellSouth. If the testing had been more comprehensive, it would have revealed additional deficiencies. It did not test whether BellSouth's systems could handle real-world CLP volumes. KPMG found that BellSouth had not satisfied test criteria in areas that have a materially adverse impact on competition. It used its professional judgement to pass BellSouth on criteria, when BellSouth had failed to meet the standards set by the GPSC. The aggregation of test results masked poor performance for service types such as number portability. The back-end pre-ordering systems' performance was masked by the inclusion of data that did not represent those systems' performance. KPMG used inappropriate statistical analysis to find criteria satisfied, thereby skewing the test results. (Test. of Norris, Tr. Vol. 11, Pgs. 295-296, and 300-302)

The Florida test had 38 open observations and 56 open exceptions. Thirty-four of the exceptions and 26 of the observations are in areas not tested in Georgia. Many of the exceptions involve LNP, ordering issues, and relationship management. There are five observations and 12 exceptions for which the Georgia test found no deficiency. Based on our record of evidence, seven observations and 10 exceptions were open in Florida for test areas which the Georgia test found to have been satisfied. (Test. of Norris, Tr. Vol. 11, Pgs. 297-298)

The Georgia test only measured parity of performance when it conducted an evaluation of maintenance and repair processes and an xDSL process parity evaluation. Evaluation of parity of performance is critical in determining whether BellSouth provides nondiscriminatory access to OSS. The Florida test is evaluating nine additional parity measures. (Test. of Norris, Tr. Vol. 11, Pgs. 299-300)

(c) Regionality of OSS

AT&T and Sprint encourage the Commission to find that BellSouth's OSS do not satisfy the test of regionality of OSS as set out in the FCC's Order granting SBC Section 271 authority in Kansas and Oklahoma. AT&T contends that the circumstances in North Carolina differ from Kansas and Oklahoma, where Texas was used as an anchor state. According to AT&T, BellSouth does not have an anchor state because the FCC has not approved any of BellSouth's three prior Section 271 applications. (Test. of Bradbury, Tr. Vol. 11, Pgs. 26-33)

Sprint also contends that the PwC attestation is inadequate to prove that BellSouth's OSS are regional. Sprint argues that the PwC attestation does not provide assurance of regionality because there was no identification of North Carolina specific systems and processes, no North Carolina testing, and no assurance that North Carolina CLPs are receiving nondiscriminatory access to OSS. Rather, PwC's review was limited to pre-ordering and ordering OSS and did not include all aspects of OSS as required by the FCC.[82] Sprint points out that the Kentucky PSC Staff found the PwC audit report to be inadequate to enable the Kentucky PSC to make a reasoned decision on BellSouth's application for Section 271 authority and encourages this Commission to find it inadequate as well. (Test. of Idoux, Tr. Vol. 10, Pgs. 440-448)

AT&T maintains that the PwC attestation does not establish that BellSouth's OSS performance is the same in each state. AT&T states that the PwC report consists of a single page in which PwC states its opinion that certain assertions by BellSouth's management are fairly stated in all material respects as of May 3, 2001, based on the criteria set forth in the Report of Management Assertions and Assertion Criteria on BellSouth's OSS. The specific assertions and assertion criteria, however, are unremarkable and do not establish that BellSouth's OSS performance from state to state is substantially the same. (Test. of Bradbury, Tr. Vol. 11, Pgs. 38-43)

Sprint contends that BellSouth's OSS test was not properly designed to be a multi-state test. A properly designed multi-state test should have its systems verified and the processes tested to ensure that samples from all states are selected. Further, state-specific tests should be developed for systems and processes that are unique to a state. (Test. of Idoux, Tr. Vol. 10, Pgs. 440-444)

According to AT&T, while BellSouth contends its OSS are regional, it has not provided performance data comparing its state-to-state performance. Month-to-month performance should not vary substantially if BellSouth's OSS are regional. (Test. of Bradbury, Tr. Vol. 11, Pgs. 26-33)

Sprint points to systems and processes that it contends differ from state to state. Sprint maintains that there are North Carolina specific systems and processes that were not tested by the Georgia third-party test, including manual processes. Sprint notes that the Tennessee Regulatory Authority stated that some of BellSouth's legacy systems serve only a subset of the region and some processes may differ by state. Sprint believes that results vary by state due to unique systems, processes, and personnel. Thus, Sprint encourages this Commission to require North Carolina specific third-party testing for systems and processes which vary within the region. (Test. of Idoux, Tr. Vol. 10, Pgs. 452-457)

AT&T maintains that BellSouth's OSS differ from state to state in the areas of account establishment and management, pre-ordering, ordering, provisioning, maintenance and repair, and billing. Thus, AT&T cautions this Commission from blindly relying on testing and performance data from other states because the variations in OSS impact the reliability of the data. (Test. of Bradbury, Tr. Vol. 11, Pgs. 33-43)

(d) Change Management Process

WorldCom contends that BellSouth often ignores, delays implementation of, or cancels CLPs' CCP requests. The CCP does not require BellSouth to schedule or even accept change requests of CLPs. WorldCom alleges that BellSouth fails to respond that it is accepting or rejecting a CLP request for a significant amount of time or keeps the request in "new status" so the request is essentially in limbo. However, BellSouth has responded to all 35 pending new requests at this time. After BellSouth accepts a request, there can be a significant interval before the request is placed on the ballot for prioritization. After a request is prioritized, implementation can also take many months. However, BellSouth has implemented 189 change requests through October 15, 2001. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 193-199, and 267-268)

In WorldCom's view, BellSouth implements changes that it initiates far more rapidly than CLP-initiated changes and fails to implement Type 6 changes, i.e., defects in interfaces, quickly enough. However, WorldCom concedes that the time to make Type 6 changes has been reduced. WorldCom also complains that BellSouth's fixed release schedule will not include the expected content of new releases and that BellSouth does not provide documentation far enough in advance of deployment of new interfaces. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 199-210)

WorldCom alleges that BellSouth does not provide it with an adequate opportunity to test interfaces. BellSouth has created a CAVE testing environment, but it is unavailable for two months due to upgrades. WorldCom has not received a notice of the outage of CAVE as required by the CCP. Based on our record of evidence, WorldCom had not yet had an opportunity to use the CAVE testing environment due to internal connectivity problems. (Test. of Lichtenberg, Tr. Vol. 10, Pgs. 210-211, 262, and 269-270)

WorldCom complains that the CCP does not have a provision for a "go/no go" vote to allow CLPs to stop implementation of a new release that does not contain sufficient new functionality to be cost effective. Since the interfaces are developed for the CLPs' benefit, the CLPs should be able to determine whether a new interface should be implemented to replace a prior version of that interface. (Test. of Lichtenberg, Tr. Vol. 10, Pg. 212)

According to AT&T, the Georgia 1000 Test revealed that BellSouth cannot provision UNEs on a consistent and timely basis. The Georgia 1000 Test was conducted by AT&T on BellSouth's OSS in Georgia. This test evaluated BellSouth's ability to provision UNEs to AT&T customers using BellSouth's UNE-P under real-world production conditions. AT&T believes that the Georgia 1000 Test is more accurate and useful than KPMG's third-party test in Georgia in assessing BellSouth's ability to provide nondiscriminatory access to the UNE-P. The Georgia 1000 Test has undergone three phases of testing. Phase I of the testing was halted due to problems caused by both parties. In Phase II of the test, BellSouth's performance missed the benchmark for nearly every metric involving the receipt and processing of orders, and a number of billing metrics. In Phase III, BellSouth missed the benchmarks for most of the metrics involving BellSouth's capacity to handle LSRs and the provisioning of service. The results of the Georgia 1000 Test cause AT&T to doubt whether BellSouth could handle the large volume of orders that AT&T would produce if it entered the local market fully. (Test. of Bradbury, Tr. Vol. 11, Pgs. 94-116)

AT&T contends that BellSouth uses its veto power over the CCP and the Change Control Document to deny CLPs the benefits of a fair and effective CCP. BellSouth has vetoed the vote of every contested ballot (a ballot that involves a disputed issue) whether or not a majority of participants supported the change request. However, AT&T admits that it has not escalated any of the "vetoed" change requests within BellSouth. Change requests generated internally by BellSouth are not disclosed to CLPs but are submitted to an internal team. This internal team then reprioritizes the list already prioritized in the CCP and includes its internal change requests. AT&T alleges that many OSS changes impacting CLPs are not part of the CCP such as BellSouth's replacement of OSS. BellSouth disregards the CCP, does not provide a "go/no go" decision point to CLPs prior to implementing new software releases, does not address some issues, does not provide draft or final requirements for software releases to CLPs in sufficient time for them to begin developing their own software coding, and does not provide CLPs with an opportunity to meet with BellSouth's decisionmakers. In addition, BellSouth does not provide an adequate opportunity to test OSS and may implement defective software point releases. The testing environment is not open and stable. AT&T disagrees with the exclusion of LENS and RoboTAG™ from the CAVE testing arrangement. AT&T argues that there is simply no reason that CLPs using these interfaces should be forced to perform live testing on their customers' orders to find BellSouth's programming errors associated with new releases. (Test. of Bradbury, Tr. Vol. 11, Pgs. 130-139, and 228-230)

(e) Performance Measures and Data Integrity

NewSouth contends that the Commission needs a performance assurity plan to monitor BellSouth's actual performance to CLPs to ensure that it provides nondiscriminatory access to UNEs in compliance with Section 271. AT&T contends that the Commission should wait to evaluate BellSouth's compliance with Section 271 until after it issues an order in Docket No. P-100, Sub 133k. AT&T characterizes BellSouth's performance measures reporting as a "moving target." AT&T argues that BellSouth has not properly implemented the GPSC's orders on performance measures by making unauthorized modifications such as excluding certain data from the measures calculations. These unauthorized exclusions allow BellSouth to show improvement in FOC timeliness, but this improvement is not due to any improvement in actual performance but due to a new method of calculation. AT&T asserts that this Commission should not rely on BellSouth's performance data produced pursuant to order of the GPSC when it has not complied with the GPSC's orders. (Test. of Jennings, Tr. Vol. 10, Pgs. 408-409; Test. of Bursh, Tr. Vol. 10, Pgs. 594-610; Test. of Norris, Tr. Vol. 10, Pgs. 615-616)

AT&T also argues that BellSouth has failed to make all raw data available so that CLPs can validate BellSouth's self-reported performance. According to AT&T, BellSouth has not developed the ability to report its metrics accurately, its reported data is inaccurate, and its performance reports lack key data. Further, there are inconsistencies between BellSouth's performance reports and the underlying data. Both the Florida and Georgia third-party tests have open exceptions on this issue. (Test. of Bursh, Tr. Vol. 10, Pgs. 594-610; Test. of Norris, Tr. Vol. 10, Pgs. 615-616)

KPMG had some open exceptions in the Georgia test which involved performance measures. Exception 79 relates to data retention policies involving the early stage data and PMAP data. Exception 89 relates to actual discrepancies between the early stage data and PMAP data. Exception 137 deals with KPMG's inability to reconcile its reports of BellSouth's performance with BellSouth's own reports. The open exceptions regarding performance measures in the Florida third-party test generally involve the integrity of the reports or the underlying data. (Test. of Norris, Tr. Vol. 10, Pgs. 638-640)

In Georgia, BellSouth owed $7 million in penalties for failing to meet the standards for handling CLP orders during March and April 2001. Based on its May 2001 performance in Georgia, BellSouth owed payments for failing to meet 45 of the

78 measures set out in the Georgia enforcement plan. In June 2001, BellSouth owed over $2.5 million for deficient performance in 52 areas. As of May 31, 2001, BellSouth owed an additional payment of $8.1 million for failing to meet 10 of 79 measurement areas for three months. In June 2001, BellSouth owed an additional $4.6 million for deficiencies in 7 performance areas. (Test. of Norris, Tr. Vol. 10, Pgs. 641-643)

(f) UNE Combinations

Opponents of BellSouth's application for Section 271 authority contend that BellSouth's refusal to provide combinations ordinarily combined in its network has a negative impact on competition. SECCA contends that BellSouth opposes granting CLPs access to new combinations of UNEs so that CLPs' businesses are disrupted, their costs increase, and their service decreases in quality. When CLP customers change locations and add lines, BellSouth's policy on combinations makes the process more complex and expensive, thereby impeding competition. (Test. of Gillan, Tr. Vol. 9, Pgs. 139, 152-155, 168, and 180-181) NewSouth argues that BellSouth's failure to combine UNEs for CLPs is discriminatory since it combines UNEs for its own retail customers. (Test. of Jennings, Tr. Vol. 10, Pgs. 410-411) AT&T also contends that BellSouth's failure to provide nondiscriminatory access to UNE combinations stifles the development of competition. (Test. of Guepe, Tr. Vol. 10, Pg. 650)

SECCA contends that BellSouth's assembly point option is a wasted expense of resources to create a less reliable and more costly environment to combine UNEs. SECCA notes that in New York, only one CLP was using this option at the time of the FCC's Section 271 Order.[83] (Test. of Gillan, Tr. Vol. 9, Pgs. 139, 152- 155, 168, and 180-181) AT&T maintains that combining UNEs in a collocation arrangement or at an assembly point is not analogous to BellSouth's beginning service to a new customer. These types of arrangements create additional steps, increase costs, and generate points of potential failure. (Test. of Guepe, Tr. Vol. 10, Pgs. 666-667)

SECCA also points out that no BOC has received Section 271 authority without a voluntary commitment to combine elements that are ordinarily combined.[84] (Test. of Gillan, Tr. Vol. 9, Pgs. 139, 152- 155, 168, 180-181) The Georgia, Tennessee, and Kentucky commissions have ordered BellSouth to provide combinations ordinarily combined, and the *Louisiana PSC Staff* has recommended that the Louisiana commission adopt the same stance. (Test. of Jennings, Tr. Vol. 10, Pgs. 410-411) AT&T submits that all BOCs that have received Section 271 approval provide new combinations as required by FCC Rule 315(b). (Test. of Guepe, Tr. Vol. 10, Pgs. 650, 655-658)

AT&T alleges that BellSouth interprets FCC Rule 319(c) in such a way as to prevent appropriate access to UNEs in the Greensboro and Charlotte MSAs. If a customer has multiple locations in the MSA, receives one bill for all the lines, and has more than three lines, BellSouth contends that none of the lines at any location may be served using the loop/switch combination. AT&T maintains that this interpretation violates Rule 319(c), as BellSouth impermissibly aggregates lines from different locations. AT&T instead believes that BellSouth should not be required to provide the combination only if there are four or more lines at one location. This interpretation impedes competition by preventing customers from changing carriers. (Test. of Guepe, Tr. Vol. 10, Pgs. 668-672)

In its June 7, 2001, Order in Docket No. P-100, Sub 133d, the Commission encouraged ILECs to provide combinations on a voluntary basis at TELRIC prices. However, BellSouth has not subsequently offered to provide new combinations at TELRIC rates pursuant to the Commission's Order. (Test. of Guepe, Tr. Vol. 10, Pgs. 647-648) BellSouth will provide new combinations but will assess a "glue charge," which is a non-TELRIC rate that BellSouth adds to the Commission approved rates for the network elements that make up the combination. Thus, AT&T argues that BellSouth can essentially charge whatever it wants for these UNE combinations. This is in contradiction of the FCC's view that the ability of CLPs to use UNEs, including combinations of UNEs, is vital to the promotion of rapid competition in the local market and is a pre-condition to the development of facilities-based competition.[85] (Test. of Guepe, Tr. Vol. 10, Pgs. 651-652, and 663-664)

(g) UNE Pricing

WorldCom contends that this Commission has not established cost-based rates for all UNE and interconnection components required by the 14-point checklist. (Test. of Darnell, Tr. Vol. 10, Pgs. 327-337) First, WorldCom points out that rates have not yet been established for co-carrier cross connects as required by the FCC.[86] WorldCom also requests that the Commission not set interim rates for the new elements proposed in this docket without a separate rate case. Specifically, WorldCom suggests that BellSouth's proposed rates for collocation cable records are not TELRIC-based and that the cost is already included in the collocation application fee. Thus, if the Commission allows this rate to become effective, BellSouth would gain a double recovery of this cost. WorldCom also contends that it is currently provided cable records at no additional charge.

WorldCom also argues that the Commission's approved costing methodology is not compliant with TELRIC principles. (Test. of Darnell, Tr. Vol. 10, Pgs. 333-337) First, WorldCom states that BellSouth's UNE rates were determined using a statistical sample of

BellSouth's historical network design rather than a scorched node costing methodology. In UNE cost proceedings in all states in the BellSouth region except North Carolina and Tennessee, BellSouth is using the BellSouth Loop Model, which is a scorched node cost model. WorldCom also contends that the current UNE loop rates are based on a statistical sample of BellSouth's embedded network design and that the sample loop includes costs from technologies that are not currently being deployed. WorldCom points out that there have been reductions in costs for DLC since the Commission set BellSouth's UNE rates, but there has been no corresponding reduction in the UNE rates. Finally, WorldCom argues that the Commission did not properly adjudicate rates for the loop-port combination.

SECCA contends that high UNE rates in North Carolina have led to a lack of UNE-based competition in North Carolina. According to SECCA, BellSouth could not afford to offer service in North Carolina if it had to lease UNEs from itself as its operating income would be reduced by at least 75%. SECCA points to the rates for ODUF and ADUF as rates that are not cost-based and shows that they are approximately 9 or 10 times higher than the rates in Michigan and Arizona. (Test. of Gillan, Tr. Vol. 9, Pgs. 138-139, and 147-152)

Public Advocate Positions

In his Brief, the Attorney General provides comments explaining his understanding of the legal framework for evaluating BellSouth's Section 271 application and provides some general observations drawn from the evidence presented at the hearing. The Attorney General did not explicitly address Checklist Item 2, except in regard to its comments regarding third-party testing, the regionality of OSS, and performance measures. Those comments are provided hereinafter under the appropriate topics. Further, the Attorney General recommended that the Commission review the FCC's order regarding BellSouth's Georgia and Louisiana applications and the United States Department of Justice (DOJ) associated evaluation of BellSouth's Georgia and Louisiana applications, before providing the FCC with its assessment on BellSouth's North Carolina application.

(a) Nondiscriminatory Access to OSS

The Public Staff notes that BellSouth contends that it provides CLPs access to OSS for the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing, and cites the findings of KPMG's third-party test as evidence. Further, the Public Staff comments that BellSouth points to its commercial usage data to substantiate its claim of nondiscriminatory access.